

1/29/12



Foodvacation Canada &lt;foodvacation@gmail.com&gt;

## Fwd: [DMCA #932099]: Notice of Infringement from National Geographic

4 messages

Susan Borke &lt;sborke@ngs.org&gt;

To: foodvacation@gmail.com

Cc: Carol King Woodward &lt;ckingwoo@ngs.org&gt;

Tue, Sep 13, 2011 at 4:56 PM

Dear Dr. Leary,

For your information.

Susan Borke  
National Geographic Society  
Law, Business and Government Affairs  
Telephone 202-775-6745  
Fax 202-857-5874

Please consider the environment before printing this email. If you must print, please use recycled office paper. Thank you!

This transmission is intended solely for the addressee(s) shown above. It may contain information that is privileged, confidential or otherwise protected from disclosure. Any review, dissemination or use of this transmission or its content by persons other than the intended addressee(s) is strictly prohibited. If you have received this transmission in error, please notify me immediately, e-mail the original to me at the sender's address above by replying to this message and including the text of the transmission received, and permanently delete the original and any copies as well as destroy any printouts of this email.

—— Forwarded message ——

From: Raegan Mathis <[rmathis@ngs.org](mailto:rmathis@ngs.org)>

Date: Tue, Sep 13, 2011 at 10:48 AM

Subject: Fwd: [DMCA #932099]: Notice of Infringement from National Geographic

To: Susan Borke <[sborke@ngs.org](mailto:sborke@ngs.org)>, [jfrancis@ngs.org](mailto:jfrancis@ngs.org), [ccckingwoo@ngs.org](mailto:ccckingwoo@ngs.org)

Please see the Wordpress response below to the issue regarding Charles Leary's photo.

They have removed the photo from the posting and the separate link that was hosting it.

Regards,



9/29/12

Raegan

----- Forwarded message -----

From: **Anthony - WordPress.com** <[dmca@automattic.com](mailto:dmca@automattic.com)>

Date: Tue, Sep 13, 2011 at 9:51 AM

Subject: [DMCA #932099]: Notice of Infringement from National Geographic

To: [mathis@ngs.org](mailto:mathis@ngs.org)

Hi,

> <http://slabbed.files.wordpress.com/2011/09/charles-leary-tpl.jpg>

Access to the above image file has been disabled.

—  
Anthony  
WordPress.com

—  
Raegan Mathis  
National Geographic  
Specialist | Rights Clearance  
[202.775.6173](tel:202.775.6173) | office  
[202.857.5874](tel:202.857.5874) | fax  
[mathis@ngs.org](mailto:mathis@ngs.org) | email

This transmission is intended solely for the addressee(s) shown above. It may contain information that is privileged, confidential or otherwise protected from disclosure. Any review, dissemination or use of this transmission or its content by persons other than the intended addressee(s) is strictly prohibited. If you have received this transmission in error, please notify me immediately, e-mail the original to me at the sender's address above by replying to this message and including the text of the transmission received, and permanently delete the original and any copies as well as destroy any printouts of this email.

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foodvacation Canada <[foodvacation@gmail.com](mailto:foodvacation@gmail.com)>

Tue, Sep 13, 2011 at 5:11 PM

To: [jng@ashoka.org](mailto:jng@ashoka.org)

National Geographic has had their copyrighted photo removed (see below). That photo has now been replaced by the blog owner with the photo of Vaughn Perret and I that is Ashoka's copyrighted material.



1/29/12

Gmail - Fwd: [DMCA #932099]: Notice of Infringement from National Geographic

We had no expectation when we allowed our photograph to be taken by Ashoka staff, that it would be used to defame us. We would greatly appreciate any assistance in having Ashoka's copyrighted material removed from the slabbed blog.

The new url where the photograph is being used is: <http://slabbed.wordpress.com/2011/09/06/we-have-a-winner-and-he-is-still-a-loser-after-all-these-years/>

This is in addition to use at the previously reported url.

Sincerely,

Charles Leary

—— Forwarded message ——

From: **Susan Borke** <[sborke@ngs.org](mailto:sborke@ngs.org)>

Date: Tue, Sep 13, 2011 at 11:56 AM

Subject: Fwd: [DMCA #932099]: Notice of Infringement from National Geographic

[Quoted text hidden]

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**foodvacation Canada** <[foodvacation@gmail.com](mailto:foodvacation@gmail.com)>

**Tue, Sep 13, 2011 at 6:04 PM**

To: Susan Borke <[sborke@ngs.org](mailto:sborke@ngs.org)>

Dear Ms. Broke:

FYI, Mr. Handshoe, the publisher of the blog, is now featuring the flickr page.

See: <http://slabbed.wordpress.com/2011/09/13/hey-everyone-make-certain-to-check-out-charles-learys-picture-on-flickr/>

Perhaps NG could remove mine and Mr. Perret's photos from flickr?

Best,

Charles Leary

[Quoted text hidden]

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**Susan Borke** <[sborke@ngs.org](mailto:sborke@ngs.org)>

**Tue, Sep 13, 2011 at 6:25 PM**

To: foodvacation Canada <[foodvacation@gmail.com](mailto:foodvacation@gmail.com)>

Cc: Carol King Woodward <[ckingwoo@ngs.org](mailto:ckingwoo@ngs.org)>

Dear Dr. Leary,

We are working on taking down the Flickr stream.

Cordially,

1/29/12

Susan Borke  
National Geographic Society  
Law, Business and Government Affairs  
Telephone 202-775-6745  
Fax 202-857-5874

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[Quoted text hidden]

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1/29/12



Foodvacation Canada &lt;foodvacation@gmail.com&gt;

## defamatory use of NGS copyrighted photo

7 messages

foodvacation Canada <foodvacation@gmail.com>  
To: infringementnotice@nationalgeographic.com

Wed, Sep 7, 2011 at 3:06 PM

Terrence B. Adamson  
Executive Vice President, Law, Business and Governmental Affairs  
NGT Library, Inc.  
1145 Seventeenth Street, NW  
Washington, DC 20036-4688

### Urgent—Misuse of copyrighted material

Mr. Adamson:

If you are not the correct person at the society to contact, please forward this message on to that person.

My business—Trout Point Lodge—was a finalist in the NGS 2009 Geotourism Challenge sponsored by the Center for Sustainable Destinations.

I was also a Delegate to the 2010 Geotourism Summit.

In attending the Summit, I allowed NGS to take my photographic portrait, with the understanding that such photos would be the copyrighted property of the Society, and would not be used by third parties without permission. The Society posted such photos at <http://www.flickr.com/photos/48032856@N03/page2/>

I have filed a civil action in Nova Scotia Supreme Court against Doug Handshoe, the owner of a blog—[slabbed.wordpress.com](http://slabbed.wordpress.com)—which has been defaming me and my business for the past year or more. The defamation is serious, and includes accusations of fraud, involvement in political corruption, money laundering, etc. The blog "slabbed" also contains speech that Justice Muise of the Supreme Court, in a May, 2011 decision, found:

In addition in the case at hand, the blogs contain comments based on the actual or perceived sexual orientation of the intended targets. Those comments are clearly meant to be derogatory and insulting. I will not reproduce them here. It is the type of expression that engenders harmful results such as discrimination and hatred. It is not the type of free expression that deserves protection and fostering.

1/29/12

Justice Muise also found the publications *prima facie* defamatory. The transcript of the decision is available if you would like to see it.

Yesterday, Mr. Handshoe used a copyrighted portrait of me, property of the NGS, on his blog's front page, with a post entitled:

**We have a winner and he is still a loser after all these years.....**

The url is: <http://slabbed.wordpress.com/2011/09/06/we-have-a-winner-and-he-is-still-a-loser-after-all-these-years/>

I am writing to ask that the Society immediately take action to have the photograph removed from publication on the slabbed blog, and to take any other legal action it deems necessary. The photo is being used to defame me, now not only in words, but also in image.

The host of the blog is Automattic, Inc. of California. <http://automattic.com/dmca/>

Sincerely,

Charles Leary, PhD  
[\(902\) 482-8360](tel:9024828360)

Thu, Sep 8, 2011 at 2:20 PM

Susan Borke <[sborke@ngs.org](mailto:sborke@ngs.org)>

To: [foodvacation@gmail.com](mailto:foodvacation@gmail.com)

Cc: Carol King Woodward <[ckingwoo@ngs.org](mailto:ckingwoo@ngs.org)>, Taranjit Kaur <[tkaur@ngs.org](mailto:tkaur@ngs.org)>

Dear Dr. Leary,

The notice you have sent has come to me for review and investigation. I want to acknowledge receipt to you and request your patience while I investigate this matter. As it is atypical for NG to post anything on Flickr, I need to understand more about the image origin and activity around it. I will follow-up with you as soon as I have more information.

Cordially,

Susan Borke  
National Geographic Society  
Law, Business and Government Affairs  
Telephone [202-775-6745](tel:2027756745)  
Fax [202-857-5874](tel:2028575874)

Please consider the environment before printing this email. If you must print, please use recycled office paper. Thank you!



9/29/12

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On Wed, Sep 7, 2011 at 3:27 PM, Carol King Woodward <[ckingwoo@ngs.org](mailto:ckingwoo@ngs.org)> wrote:  
Susan,

This email was forwarded to me. I am not sure if I would forward it to you?

Thank you!

Carol

----- Forwarded message -----

From: **Taranjit Kaur** <[tkaur@ngs.org](mailto:tkaur@ngs.org)>

Date: Wed, Sep 7, 2011 at 11:06 AM

Subject: Fwd: defamatory use of NGS copyrighted photo

To: Carol King Woodward <[ckingwoo@ngs.org](mailto:ckingwoo@ngs.org)>

Cc: NGDMRights <[ngdmrights@ngs.org](mailto:ngdmrights@ngs.org)>

----- Forwarded message -----

From: **Infringement Notice** <[infringementnotice@nationalgeographic.com](mailto:infringementnotice@nationalgeographic.com)>

Date: Wed, Sep 7, 2011 at 10:15 AM

Subject: Fwd: defamatory use of NGS copyrighted photo

To: NGDMRights <[ngdmrights@ngs.org](mailto:ngdmrights@ngs.org)>

[Quoted text hidden]

—  
**Taranjit Kaur**  
Rights Specialist  
National Geographic Image Collection  
Tel: 202-857-7293  
Fax: 202-429-5750  
[tkaur@ngs.org](mailto:tkaur@ngs.org)

National Geographic images are now available online. Visit our website at  
<http://ngsimages.com>.

1/29/12

—  
Carol King Woodward  
Visual Editor, Communications  
National Geographic Society  
202.457.8486 | ckingwoo@ngs.org

---

**foodvacation Canada <foodvacation@gmail.com>**  
To: Susan Borke <sborke@ngs.org>

**Thu, Sep 8, 2011 at 2:25 PM**

Dear Ms. Borke:

Thank you for your response. I, too, was surprised by the postings to Flickr. I assume that this was done by the Center for Sustainable Destinations or person in charge of the Geotourism Summit.

The portraits were taken of all finalists at your photo studio at NGS Headquarters.

The connection of this photo to defamatory material and hate speech is quite unsettling, and I hope that you can respond quickly.

Don't hesitate to contact me with any further questions.

Sincerely,

Charles Leary

[Quoted text hidden]

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**Susan Borke <sborke@ngs.org>**  
To: foodvacation@gmail.com  
Cc: Carol King Woodward <ckingwoo@ngs.org>

**Fri, Sep 9, 2011 at 4:45 PM**

Dear Dr. Leary,

NG is sending the appropriate DMCA notice to WordPress regarding this photograph. Thank you for bringing the matter to our attention.

Cordially,

Susan Borke  
National Geographic Society  
Law, Business and Government Affairs  
Telephone 202-775-6745  
Fax 202-857-5874





12 messages

**Thu, Sep 8, 2011 at 9:46 PM**

**I am one of the owners of Trout Point Lodge and a 2009 Geotourism Challenge finalist.**

**Vaughn Perret and I were also delegates to the 2010 Geotourism Summit.**

At that Summit, employees of Ashoka took our photograph with our permission. It was assumed that this would be used to promote Changemakers and geotourism.

This photo—located at <http://www.changemakers.com/es/stories/trout-point-lodge-making-change-happen-place-place>—has now, however, been republished by someone who is stalking, harassing, threatening, and defaming us. We have filed a civil law suit in Nova Scotia against the owner/publisher of the blog [slabbed.wordpress.com](http://slabbed.wordpress.com), who has now used this photograph to defame us not only in words, but now visually as well. The blog is also full of anti-gay hate speech.

The urls of the publication with the photograph is:

<http://slabbed.wordpress.com/2011/09/08/slabbed-solves-the-mystery-on-the-shores-of-the-tusket-river-in-nova-scotia-as-we-reveal-the-trout-point-connection-to-the-jefferson-parish-political-corruption-scandal/>  
and

**A justice of the Supreme Court of Nova Scotia has already decided:**

in the case at hand, the blogs contain comments based on the actual or perceived sexual orientation of the intended targets. Those comments are clearly meant to be derogatory and insulting. I will not reproduce them here. It is the type of expression that engenders harmful results such as discrimination and hatred. It is not the type of free expression that deserves protection and fostering.

We are requesting that Ashoka immediately take steps to have the republication of your copyrighted material removed from the slabbed blog. The blog is currently hosted by Automattic, Inc. of California. Their DMCA policy can be found at: <http://automattic.com/dmca/>

1/29/12

Sincerely,

Charles Leary  
(902) 482-8360

—  
 Trout Point Lodge, Relais & Chateaux  
[www.troutpoint.com](http://www.troutpoint.com)  
 NGS Geotourism Challenge finalist

---

**Mail Delivery Subsystem** <mailer-daemon@googlemail.com> Thu, Sep 8, 2011 at 9:46 PM  
 To: trout.point.lodge@gmail.com

Delivery to the following recipient failed permanently:

privacy@changemakers.net

Technical details of permanent failure:

Google tried to deliver your message, but it was rejected by the recipient domain. We recommend contacting the other email provider for further information about the cause of this error. The error that the other server returned was: 550 550 No such user - psmt (state 14).

— Original message —

MIME-Version: 1.0

Received: by 10.52.34.50 with SMTP id w18mr1145001vdi.505.1315511210333; Thu, 08 Sep 2011 12:46:50 -0700 (PDT)

Received: by 10.52.116.102 with HTTP; Thu, 8 Sep 2011 12:46:50 -0700 (PDT)

Date: Thu, 8 Sep 2011 16:46:50 -0300

Message-ID: <CAPbn8xSSTq0FWpskUhcXyV6bsYF  
 mgbO3\_8GFLBj9uWzRtHd\_Q@mail.gmail.com>

Subject: use of copyrighted material in defamatory publications

From: Trout Point Lodge <trout.point.lodge@gmail.com>

To: privacy@changemakers.net

Content-Type: multipart/alternative; boundary=20cf30780c1263d80e04ac735277

[Quoted text hidden]

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**Trout Point Lodge** <trout.point.lodge@gmail.com>  
 To: dgoldstone@ashoka.org

Thu, Sep 8, 2011 at 9:53 PM

— Forwarded message —

From: **Trout Point Lodge** <trout.point.lodge@gmail.com>

Date: Thu, Sep 8, 2011 at 4:46 PM

Subject: use of copyrighted material in defamatory publications



1/29/12

[Quoted text hidden]

[Quoted text hidden]

**Jonathan Ng <jng@ashoka.org>**

**Tue, Sep 13, 2011 at 1:11 AM**

To: "trout.point.lodge@gmail.com" <trout.point.lodge@gmail.com>

Cc: Danielle Goldstone <dgoldstone@ashoka.org>

Dear Charles,

Your e-mail below that you sent to Ashoka's Changemakers has been forwarded to me. We have been in touch with our legal counsel regarding your request.

Best regards,

Jonathan

**Jonathan Ng**

Legal Director\* | Ashoka

1700 N. Moore St., Suite 2000 | Arlington, VA 22209

T: 703.527.8300 | F: 703.527.8383 | jng@ashoka.org

Skype: jonathan.ng.12

[www.ashoka.org](http://www.ashoka.org)

\*Admitted to practice law only in New York State

[Quoted text hidden]

**Trout Point Lodge <trout.point.lodge@gmail.com>**

**Tue, Sep 13, 2011 at 3:07 AM**

To: Jonathan Ng <jng@ashoka.org>

Mr. Ng:

Thank you. I look forward to hearing from you.

The same blog also used a photo that was the National Geographic Society's copyrighted material, and the Society's legal affairs dept. has told me that they sent a DMCA notice to

/29/12

Automattic, Inc.

Sincerely,

Charles Leary

[Quoted text hidden]

---

**Trout Point Lodge <trout.point.lodge@gmail.com>**  
**To: Jonathan Ng <jng@ashoka.org>**

**Thu, Sep 15, 2011 at 6:59 PM**

Dear Jonathan:

Any news from legal counsel?

Best,

Charles

On Mon, Sep 12, 2011 at 8:11 PM, Jonathan Ng <jng@ashoka.org> wrote:

[Quoted text hidden]

[Quoted text hidden]

---

**Jonathan Ng <jng@ashoka.org>**  
**To: Trout Point Lodge <trout.point.lodge@gmail.com>**

**Thu, Sep 15, 2011 at 7:05 PM**

Hi Charles,

I followed up again this morning. We are also eager to make sure this issue is addressed quickly.

Regards,  
Jonathan

[Quoted text hidden]

---

**Trout Point Lodge <trout.point.lodge@gmail.com>**  
**To: Jonathan Ng <jng@ashoka.org>**

**Thu, Sep 15, 2011 at 7:07 PM**

Thank you,

Charles

[Quoted text hidden]



1/29/12

Gmail - use of copyrighted material in defamatory publications

**Trout Point Lodge <trout.point.lodge@gmail.com>**

**Fri, Sep 23, 2011 at 10:43 PM**

To: Jonathan Ng <jng@ashoka.org>

Dear Mr. Ng:

Will Ashoka be submitted a DMCA Notice to Automattic, Inc. regarding use of its copyrighted photograph of Mr. Perret and I.

This is a simply procedure, and we find Automattic to be very responsive.

Neither of us anticipated when we gave Changemakers permission to take our photograph that it would be used to defame us.

Just checking to see if there is any news . . .

Best,

Charles Leary

On Mon, Sep 12, 2011 at 8:11 PM, Jonathan Ng <jng@ashoka.org> wrote:

[Quoted text hidden]

[Quoted text hidden]

---

**Jonathan Ng <jng@ashoka.org>**

**Wed, Sep 28, 2011 at 6:46 PM**

To: Trout Point Lodge <trout.point.lodge@gmail.com>

Dear Charles:

We will be submitting a DMCA notice to Wordpress.com requesting them to remove the photo taken from our Changemakers's website.

Best regards,

Jonathan

**Jonathan Ng**

Legal Director

Ashoka

1700 N. Moore St., Suite 2000

Arlington, VA 22209

1/29/12

T: 703.600.8304 E: [jng@ashoka.org](mailto:jng@ashoka.org)

Skype: jonathan.ng.12

[www.ashoka.org](http://www.ashoka.org)

---

**From:** Trout Point Lodge [<mailto:trout.point.lodge@gmail.com>]  
**Sent:** Friday, September 23, 2011 4:43 PM  
**To:** Jonathan Ng  
**Subject:** Re: use of copyrighted material in defamatory publications

[Quoted text hidden]

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**Trout Point Lodge** <[trout.point.lodge@gmail.com](mailto:trout.point.lodge@gmail.com)>  
**To:** Jonathan Ng <[jng@ashoka.org](mailto:jng@ashoka.org)>

Wed, Sep 28, 2011 at 7:15 PM

Thank you.

Best,

Charles

[Quoted text hidden]

---

**Trout Point Lodge** <[trout.point.lodge@gmail.com](mailto:trout.point.lodge@gmail.com)>  
**To:** Jonathan Ng <[jng@ashoka.org](mailto:jng@ashoka.org)>

Fri, Sep 30, 2011 at 6:50 PM

Dear Mr. Ng:

Could you please keep me update on any response from Automattic, Inc/Wordpress? As of today, the photo still appears in publications.

Best,

Charles Leary

[Quoted text hidden]



1/29/12



Trout Point <trout.point.lodge@gmail.com>

## FW: [DMCA #954855]: Notice of Infringement from Ashoka's Changemakers

5 messages

Jonathan Ng <jng@ashoka.org>  
To: Trout Point Lodge <trout.point.lodge@gmail.com>

Mon, Oct 3, 2011 at 8:54 PM

FYI.

—Original Message—

From: Anthony - WordPress.com [mailto:dmca@automattic.com]  
Sent: Monday, October 03, 2011 2:53 PM  
To: Jonathan Ng  
Cc: Chelsea Brownridge  
Subject: [DMCA #954855]: Notice of Infringement from Ashoka's Changemakers

Hi,

> The copy of the URL containing our copyrighted material is located at:

>

> <http://slabbed.wordpress.com/2011/09/06/we-have-a-winner-and-he-is-still-a-loser-after-all-these-years/>

>

> The photo taken by Changemakers is located at the following URL:

>

> <http://www.changemakers.com/es/stories/trout-point-lodge-making-change-happen-place-place>

In accordance with the valid DMCA notice you have submitted, access to the infringing material(s) has been disabled. Please note the notice will be forwarded to the owner of the site in question and may be formally challenged. Should the notice be challenged, we will notify you immediately.

—  
Anthony

WordPress.com



